IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

WP(C).No. 16512 of 2007(N)

PETITIONER:

N.S.S.HINDU COLLEGE, CHANGANACHERRY
REPRESENTED BY ITS PRINCIPAL, SRI. C.CHANDRAN,
RESIDING AT PRINCIPAL QUARTERS, N.S.S HINDU
COLLEGE, CHANGANACHERRY.

BY ADV. SRI.P.G.PARAMESWARA PANICKER (SR.)
SRI.P.GOPAL

RESPONDENTS:

1. THE CHIEF ENGINEER, KERALA STATE
ELECTRICITY BOARD, ELECTRICAL SECTION, KOTTAYAM.

2. THE EXECUTIVE ENGINEER, KERALA STATE
ELECTRICITY BOARD, ELECTRICAL SECTION, KOTTAYAM.

3. THE ASSISTANT ENGINEER, KERALA STATE
ELECTRICITY BOARD, CHANGANACHERRY ELECTRICAL
SECTION, CHANGANACHERRY.

4. THE SUB ENGINEER, KERALA STATE
ELECTRICITY BOARD, CHANGANACHERRY ELECTRICAL
SECTION, CHANGANACHERRY.

5. THE REGIONAL ACCOUNTS OFFICER,
KERALA STATE ELECTRICITY BOARD, OFFICE OF THE
REGIONAL ACCOUNTS OFFICER, CHANGANACHERRY
ELECTRICAL SECTION, CHANGANACHERRY.

6. THE KERALA STATE ELECTRICITY BOARD
REPRESENTED BY ITS SECRETARY, VAIDYUDHI BHAVAN,
THIRUVANANTHAPURAM.

BY ADV. SHRI.P.P.THAJUDEEN, SC, KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) No. 16512/2007

APPENDIX

PETITIONER'S EXHIBITS

P1 : COPY OF THE MAHAZAR DATED 11/01/2007.

P2 : COPY OF THE BILL DATED 25/01/2007.

P3 : COPY OF THE LETTER DATED 02/03/2007 OF THE PRINCIPAL.

P4 : COPY OF THE BILL DATED 16/05/2007.

P5 : COPY OF THE LETTER OF THE ASSISTANT ENGINEER DATED 16/05/2007.

P6 : COPY OF THE LETTER DATED 25/05/2007 OF THE EDUCATIONAL AGENCY SENT TO THE EXECUTIVE ENGINEER.

P7 : COPY OF THE RELEVANT PORTION OF THE NOTIFICATION OF THE BOARD, B.O.(FM) NO, 1462/02/TRAC/TO-1/2002 DATED 24/10/2002 PUBLISHED in the KERALA GAZETTE EXTRA ORDINARY VOLUME XLVII, NO. 1577 DATED 01/11/2002.

P8 : COPY OF BILL DATED 28/06/2007 ISSUED BY THE 3RD RESPONDENT.

// TRUE COPY //

PA TO JUDGE.

jg

C.R.

C.N.RAMACHANDRAN NAIR, J.

WP(C) No. 16512 of 2007

Dated, this the 11th day of July, 2007

J U D G M E N T

Petitioner is challenging demand of electricity charges at commercial tariff under LT-VII A for the electricity connection given to the canteen attached to the petitioner-college. According to the petitioner, canteen is located in the college premises and is exclusively catering to the needs of the students and staff. Therefore tariff applicable for educational purposes, namely LT-VI A, should be applied is the case of the petitioner. However, learned Standing Counsel for KSEB contended that canteen is run by contractor engaged by petitioner and therefore it is to be charged at commercial tariff. His further contention is that other institutions which are covered along with educational institutions under tariff LT-VI A are reading rooms and libraries and since canteen is not covered by the said entry, petitioner's claim is not tenable. I feel, canteen whether run by educational institution directly or through contractor cannot be treated as an educational institution and therefore it cannot claim lower tariff under LT VI-A, and therefore claim of the petitioner for billing of electricity charges

for canteen under LT VI-A is rejected.

2. The next question to be considered is the argument of the learned counsel for the petitioner that canteen cannot be assessed under the commercial tariff. I feel, in order to consider the question raised by the petitioner, other relevant tariff items also have to be considered and if petitioner is covered any other tariff, billing under commercial tariff cannot be sustained. In this connection, I find that the tariff item LT VI-B covers among other institutions, hostels of educational institutions affiliated to the Universities or under the control of the Director of Technical / Medical Education, Director of Public Instructions or such other officers of the Government or run by the Government or State Social Welfare Board etc. It is obvious from this tariff entry that hostels attached to educational institutions are not to be treated as commercial establishments to be billed under tariff LT VII-A.

3. Now the question to be considered is whether the canteen run by a college should be treated as commercial establishment and should be billed at commercial tariff, while the hostel run by the same college is billed under the tariff LT-VI B. Hostel is a place where educational institution provides food and accommodation to staying students and canteen attached to the college also provides

similar facility, i.e. providing food to the students and staff, who do not stay in the campus. The only purpose, in both the cases, is to provide facility to the students in the college campus. Obviously, hostels and canteens are not run by educational institutions to make profit but are run for the benefit of the students and staff. It is a well known fact that only moderate charges are levied in college canteens. Therefore, the object of running a canteen is not to make profit and prima facie it cannot be said to be commercial activity to be billed at commercial tariff. Moreover, it is to be noted that LT VII-A covers establishments like hotels, restaurants, bakeries, cinema studios, commercial premises etc., all of which are run for earning profit and are basically and essentially commercial establishments. Even though canteen attached to colleges are not specifically covered by LT VI-B, it cannot be billed under LT VII-A as it is not a commercial establishment as held above. "Hostels" of educational institutions affiliated to Universities under LT-VI B cannot be given a restricted meaning in as much as the purpose of hostel as well as canteen run by a college, as already found is essentially the same. Moreover, it will be inequitable, arbitrary and discriminatory to deny the same tariff benefit available to hostels, to the canteen run by the colleges and if higher tariff is charged

the same will go to increase cost of food and services in the canteen defeating the very purpose of canteen provided to students. In this view of the matter, I hold that college canteen more appropriately falls under LT-VI B.

4. The next question is whether the character of the canteen is changed on account of the fact that it is not directly run by the college but is run through engaging a contractor. I do not think there is any difference whether canteen is run by the educational institution directly or by engaging a contractor. So long as the service of the canteen is to meet the needs of students and staff community and there is no case for the respondents that the canteen is run as a restaurant or on commercial scale, it's true nature and character as a canteen run by an educational institution is not changed even when it is run through a contractor. In the circumstances, this writ petition is partly allowed by directing the KSEB to raise bills for power charges for the canteen attached to the petitioner-college under LT VI-B and grant consequential benefits to the petitioner.

(C.N.RAMACHANDRAN NAIR, JUDGE.)

jg